

IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

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UNITED CITIES GAS COMPANY, a
Division of ATMOS ENERGY
CORPORATION INCENTIVE PLAN
ACCOUNT (IPA) AUDIT

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**UNITED CITIES GAS COMPANY'S REVISED RESPONSES TO
ATTORNEY GENERAL'S FIRST SET OF INTERROGATORIES,
REQUESTS FOR PRODUCTION OF DOCUMENTS & THINGS
AND REQUESTS FOR ADMISSION**

United Cities Gas Company ("UCG") submits the following in response to the Attorney General's First Set of Interrogatories, Requests for Production of Documents & Things and Requests for Admission.

I. GENERAL OBJECTIONS AND PRELIMINARY STATEMENTS

A. UCG objects to the Attorney General's definition of "you" and "your" on the grounds that it is overly broad.

B. UCG's responses to the Attorney General's interrogatories are made without waiving or intending to waive the right to object to the use of any information provided in response in any subsequent proceeding or trial of this or any other action. UCG's responses to Attorney General's interrogatories are also not a waiver of any of the foregoing objections or any objections it has made or may make with respect to any similar, related, or future interrogatory, and UCG specifically reserves the right to interpose any objection to further interrogatories notwithstanding any response or lack of objection made in this response.

C. UCG objects to each discovery request to the extent it seeks information which is the subject of the attorney-client privilege, information which has been prepared in anticipation of litigation and is thus immune from discovery under the work product doctrine, or information otherwise privileged or protected from disclosure.

D. UCG objects to the definitions and instructions contained in the Attorney General's First Set of Interrogatories, Requests for Production of Documents & Things and Requests for Admission to the extent they impose greater obligations than those imposed by Tennessee law.

E. UCG is providing these responses subject to its general and specific objections.

F. UCG will supplement its responses in accordance with the requirements of state law.

G. UCG expressly incorporates these general objections into its responses set forth below.

INTERROGATORIES

Consistent with the preceding definitions and preliminary matters, answer under oath the following specific interrogatories.

1. Identify the person who has responded to these interrogatories or who has furnished information or otherwise assisted in the formation of the responses of these interrogatories. If more than one person supplies information in response to these interrogatories, please specify by each person's name the number(s) of the interrogatory(ies) to which that person is responding.

RESPONSE: Patricia Childers, John Hack, Frank Creamer and Joe A. Conner

2. Identify all persons known to you, your attorney, or other agent who have knowledge, information or possess any document(s) or claim to have knowledge, information or

possess any document(s) regarding the incidents and/or transactions which form the basis of UCG contesting the audit findings of the Energy and Water Division of the TRA in Docket No. 01-00704.

RESPONSE: Objection. This interrogatory is overly broad, unduly burdensome and vague. Without waiving this objection, the persons with the knowledge of the type requested include all individuals listed on the respective witness lists filed in this matter filed by UCG, the staff of the TRA and the Attorney General. In addition, other people with personal knowledge include Alesia Rye, Patti Dathe, Bob Cline, David McClanahan, Mark Thessin, Jon Wike and attorneys with the Consumer Advocate Division and Staff of the Consumer Advocate Division. Ms. Rye, Ms. Dathe, Mr. Cline and Mr. Thessin can be contacted through counsel for the Company.

3. If it is claimed that the TRA, or any individual claimed to be an employee, agent, or representative of the TRA, made any representations, statements, purported admissions of liability or responsibility, or any other statements whatsoever, to you, to any attorney for or representative of you, or to any third party, as relates to the incidents and/or transactions which form the basis of UCG contesting the audit findings of the Energy and Water Division of the TRA in Docket No. 01-00704, then, with respect to each, state:

a. the date, time and place;

RESPONSE: Meeting occurred on January 31, 2001 at the TRA.

b. the identity of the person to whom such statement was made;

RESPONSE: Those in attendance representing UCG at the meeting included Mark Thessin, Patricia Childers, Patti Dathe, Alisa Rye, Bob Cline and John Hack. Members of the staff who attended this meeting were Michael Horne, Pat Murphy and David McClanahan.

c. the identity of all persons present;

RESPONSE: See Company response to Audit Finding No. 2.

d. the substance of each such statement; and

RESPONSE: See Company response to Audit Finding No. 2.

e. whether such statement was recorded, written, or whether notes were made to refresh someone's recollection, and if so, the present location of each such recording, writing, or notes.

RESPONSE: The meeting was not recorded.

4. With respect to each person you expect to call as an expert witness at the hearing of this matter, state:

a. their full name and work address;

RESPONSE: Frank Creamer, 730 Walnut Road, Barrington, IL 60010.

b. each subject matter about which such witness is expected to testify;

RESPONSE: It is expected that Mr. Creamer will testify in support of UCG's position contesting the audit findings in Docket No. 01-00704 and to rebut the testimony of Dr. Stephen Brown.

c. the substance of the facts and opinions to which the expert is expected to testify;

RESPONSE: Mr. Creamer has not completed his analysis.

d. a summary of the grounds or basis of each opinion to which such witness is expected to testify; and

RESPONSE: Mr. Creamer has not completed his analysis.

e. whether or not the expert has prepared a report, letter of memorandum of his findings, conclusions or opinions.

RESPONSE: Mr. Creamer's affidavit will be provided on or before October 21, 2002.

5. Identify all other experts consulted or engaged by you, your attorney or your agents regarding your contesting of the audit findings of the Energy and Water Division of the TRA in Docket No. 0 1-00704.

RESPONSE: None.

6. If UCG or Atmos has informed or educated its Tennessee customers that their natural-gas bills are affected by the company's "gas procurement incentive mechanism," provide copies of all pertinent documents.

RESPONSE: Objection. The interrogatory is vague, overly broad and undefined. In addition, there is no limitation as to time. Without waiving this objection and assuming the "gas procurement incentive mechanism" refers to the PBR approved in Docket No. 97-01364, UCG did not communicate directly with its customers about how their natural gas bills are affected by the PBR mechanism.

7. Where UCG or Atmos, or anyone on behalf of UCG or Atmos, has intervened in any proceedings before the Federal Energy Regulatory Commission at any time since the company's "gas procurement incentive mechanism" began in Tennessee, name the FERC dockets and provide full copies of pleadings, briefs and testimony made by the company, or on its behalf, in those dockets.

RESPONSE: Objection. The term "gas procurement incentive mechanism" is vague and undefined in the interrogatory. Without waiving this objection and assuming the quoted phrase

refers to the gas commodity mechanism within the PBR, the answer is yes, but the Company is not aware of a FERC Docket that pertained to the PBR.

8. If UCG or Atmos have any criteria for intervening in FERC dockets, provide copies of all documents pertaining to such criteria.

RESPONSE: Objection. This interrogatory is vague, overly broad and is ambiguous. Without waiving this objection, UCG routinely intervenes in FERC Dockets to become a party and monitor the proceedings to obtain data and to participate when necessary. There are no documents which specify or pertain to any criteria for intervening in FERC Dockets in general or specifically in regard to the PBR.

9. Provide copies of all documents, including email and minutes of the company's Board of Directors, in the possession of the company or its consultants, where the documents are not protected by the attorney-client privilege and where UCG or Atmos discuss the "gas procurement incentive mechanism" in Tennessee.

RESPONSE: Objection. This interrogatory is overly broad, vague, ambiguous and not limited by time. In particular, the phrase "gas procurement incentive mechanism" is not properly defined. Furthermore, it requests documents that are protected by the attorney-client privilege and work product doctrine. Without waiving this objection, the Company is producing applicable Board of Director minutes. These documents will be delivered on Tuesday, October 15, 2002.

10. What pipelines have transported natural gas for UCG or Atmos since the time the "gas procurement incentive mechanism" began in Tennessee?

RESPONSE: Objection. The term "gas procurement incentive mechanism" is vague and undefined. Without waiving this objection and assuming the term "gas procurement incentive mechanism" refers to the PBR approved in Docket No. 97-01364, you may refer to the previous

invoice from Woodard Marketing, LLC supplied by UCG for a listing of the majority of the pipelines that have transported natural gas to UCG's city gate. See also Ex. 1 to the PGA filings with the TRA.

11. If UCG or Atmos have at any time since the "gas procurement incentive mechanism" began in Tennessee and before November 2000, paid a pipeline to transport natural gas where the price for transport was less than the maximum price for such transport listed in the pipeline's tariffs filed with FERC, then provide a record of each transaction, where each record lists the pipeline, its maximum price, the price paid by UCG or Atmos, the month and year of the transaction.

RESPONSE: Objection. This interrogatory is overly broad, vague, unduly burdensome and contains undefined terms. Without waiving this objection, the Company first negotiated a transportation discount in 1999 as reflected on the documents provided the TRA staff in the meeting on January 31, 2001. The details are reflected on the documents given to staff at the meeting and a copy is attached to the Staff's Data Response to the Company. The negotiation of the majority of the discounts were not accomplished until November 2000.

12. Explain why a pipeline would transport gas for UCG or Atmos at a price less than the maximum price for transport.

RESPONSE: Objection. The term "pipeline" is vague, overly broad and undefined. Without waiving this objection, a pipeline company will transport gas for UCG at a price less than the maximum FERC rate for transport if UCG has been successful in negotiating a discounted transportation contract.

13. If UCG or Atmos knows how a pipeline calculates its maximum price to transport gas, show the calculations that lead to the maximum price.

RESPONSE: Objection. The term "pipeline" is vague, overly broad, undefined and unduly burdensome. If you are referring to a pipeline company with whom UCG contracts for transportation of gas, UCG is not privy to the internal calculations made by any of said companies. You may refer to the applicable pipeline company FERC filings for their calculations.

14. If UCG or Atmos has informed any pipeline about the "gas procurement incentive mechanism" in Tennessee, provide copies of all documents, including any contract pending or contingent with any pipeline that knows of the "gas procurement incentive mechanism in Tennessee, any email, telephone logs and any other written documents, including minutes of the company's Board of Directors, where UCG or Atmos told the pipeline about the "gas procurement incentive mechanism" in Tennessee.

RESPONSE: Objection. This interrogatory is vague, unduly broad and not limited by time. The terms "pipeline" and "gas procurement incentive mechanism" are vague, overly broad and are undefined. Assuming your reference to the "gas procurement incentive mechanism" is the gas commodity mechanism included within the PBR, UCG would state that the PBR is a public record and there is no record of the Company telling any pipeline about the "gas procurement incentive mechanism in Tennessee."

15. If UCG or Atmos or their consultants informed any pipeline that the UCG or Atmos intends to use the pipeline's maximum prices in the "gas procurement incentive mechanism" in Tennessee, provide copies any email, telephone logs and any other written documents, including minutes of the company's Board of Directors, where UCG or Atmos told the pipeline about the

intent to use the pipeline's maximum prices in the "gas procurement incentive mechanism" in Tennessee.

RESPONSE: Objection. This interrogatory is vague, overly broad, ambiguous and not limited to time. In particular, the terms "pipeline" and "gas procurement incentive mechanism" are not defined. Without waving this objection, UCG does not recall informing a pipeline company that it intends to use the pipeline's maximum prices in the PBR.

16. If UCG or Atmos or their consultants have ever offered or intend to offer any pipeline a *quid pro quo* or any other consideration in exchange for a pipeline transporting gas for UCG or Atmos at a price less the pipeline's maximum price, then explain why a *quid pro quo* or other consideration is necessary to encourage a pipeline to transport gas at less than the maximum price.

RESPONSE: Objection. This interrogatory is vague, overly broad and ambiguous. In particular, UCG does not understand what the Attorney General means by "quid pro quo." Without waiving these objections, UCG would state that it actively negotiated for the discounted transportation contracts and in doing so utilized its bargaining position in the industry. There was no additional consideration given that is not reflected in the contracts. UCG was incentivized by the PBR to negotiate these discounts and invested significant time and resources in these negotiations.

17. If any pipeline ever requested from UCG or Atmos or their consultants a *quid pro quo* or any other consideration in exchange for the pipeline transporting gas for UCG or Atmos at a price less the pipeline's maximum price, then explain why a *quid pro quo* or other consideration is necessary to encourage a pipeline to transport gas at less than the maximum price.

RESPONSE: See response to Interrogatory No. 16.

18. What incentive does UCG or Atmos have to prevent the pipeline from raising its maximum price when UCG or Atmos is allowed to keep a portion of the difference between the actual price paid and the maximum price?

RESPONSE: Objection. This interrogatory is a hypothetical which does not provide sufficient information from which UCG can adequately respond. Without waiving this objection, the Company states that FERC alone controls the maximum price. The Company desires to keep the maximum price low in order to help it maintain its market share.

19. If UCG or Atmos provided to any state regulatory agency (other than the Tennessee Regulatory Authority) testimony, briefs and pleadings regarding the use of maximum pipeline prices in any gas-incentive program or mechanism carried on in states beside Tennessee, provide full copies of those documents.

RESPONSE: See Case No. 2001-00317 for the Kentucky Public Service Commission. To the extent that testimony, briefs and pleadings in this case are not readily available from the Kentucky Public Service Commission, such documents will be provided by UCG at a mutually convenient time and location.

20. If your response to any Request for Admission is other than an unqualified admission, state for each such Request for Admission the following:

a. all facts that you contend support in any manner your response to the extent it is not a complete admission;

RESPONSE: The Company has given explanations with the responses to the Requests for Admission.

b. for any information you contend is incorrect or inaccurate provide the correct information;

RESPONSE: See response to Interrogatory No. 20.a.

c. identify all documents, or any tangible or intangible thing that supports in any manner your refusal to admit or your qualification of your admission;

RESPONSE: See response to Interrogatory No. 20.a.

d. the name and address of the custodian of all tangible things identified in response to subsection (b) of this interrogatory; and

RESPONSE: See response to Interrogatory No. 20.a.

e. the name and address of all persons, including consultants, purporting to have any knowledge or factual data upon which you base your refusal to admit or your qualification of your admission.

RESPONSE: See response to Interrogatory No. 20.a.

21. If you fail to admit or deny any Request for Admission based on your asserted lack of information or knowledge, for each such Request for Admission:

a. describe your efforts toward satisfying the reasonable inquiry requirement of Rule 36 of the Tenn. R. Civ. Pro.;

RESPONSE: UCG did not fail to admit or deny any requests for admission based on lack of information or knowledge.

b. identify all documents or any other tangible or intangible thing that you reviewed prior to determining that you lacked sufficient information or knowledge to be able to admit or deny the request;

RESPONSE: See response to Interrogatory 21.a.

c. describe and identify what information is known or readily obtainable by you through reasonable inquiry;

RESPONSE: See response to Interrogatory 21.a.

d. state the grounds for your position that the information set out in your response to subsection (c) of this interrogatory is insufficient to enable you to admit or deny the request.

RESPONSE: See response to Interrogatory 21.a.

REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS

1. Copies of any and all documents identified in your answers or responses to these interrogatories.

RESPONSE: Any documents identified in response to answers to these interrogatories will produced at a mutually convenience time and location.

2. Copies of any and all documents reviewed to prepare your answers or responses to these interrogatories and/or requests for admissions.

RESPONSE: Objection. This request for production is overly broad, vague and unduly burdensome. Without waiving this objection, all such documents have been produced.

3. Any and all expert reports which have been obtained from any expert.

RESPONSE: An expert report or affidavit from Mr. Creamer has not been prepared at this date but will be submitted on or before October 21, 2002.

4. Copies of any and all statements previously made by the TRA. concerning the subject matter of this lawsuit, including, without limitation, any written statements signed or otherwise adopted or approved by the TRA, and any stenographic, mechanical, electrical, or other type of recording or transcription thereof made by TRA and contemporaneously recorded.

RESPONSE: Objection. This request for production is overly broad, vague and unduly burdensome and UCG does not view this proceeding as a "lawsuit." The Company is not aware of any such written statements, except the transcripts which are already of record.

5. Each document, photograph, or any other article or thing whatsoever, which you claim to corroborate any part of your contesting of the audit findings of the Energy and Water Division of TRA in Docket No. 01-00704 (which have not been previously produced or filed in the record), whether as to the issues of liability, causation, damages, credibility or any other issue, or which is adverse to your contentions regarding the issues of liability, causation, damages, or any other issue.

RESPONSE: Objection. This request for production is overly broad, vague and unduly burdensome. Without waiving this objection, see the documents previously produced and/or filed with the TRA.

REQUESTS FOR ADMISSION

1. UCG's inclusion in its Performance Based Ratemaking ("PBR") of the savings resulting from negotiated transportation discounted contracts is inconsistent with the TRA's Final Order in Docket No. 97-0 1364.

RESPONSE: Denied. UCG has repeatedly asserted that the inclusion of such savings is consistent with said Final Order

2. UCG supplemented their current formulas with additional calculations that are not consistent with the TRA's Final Order on Phase II in Docket No. 97-01364.

RESPONSE: Objection. The term "current formulas" is vague, overly broad and undefined. Without waiving this objection, this request is denied. See response to Number One.

3. UCG inclusion of the negotiated transportation contracts in the PBR for the 2000-2001 plan year is not consistent with the tariff filed by UCG in this matter.

RESPONSE: Denied. UCG has repeatedly asserted that inclusion of the negotiated transportation contracts in the PBR is consistent with its tariff.

4. The final calculations that were determined by UCG do not conform to its incentive plan approved in TRA Docket No. 97-0 1364.

RESPONSE: Denied. See response to Number 3 and the Company's response to the audit findings.

5. There is no market index of maximum prices for the transport of natural gas.

RESPONSE: Objection. The term "market index" is vague, overly broad and undefined. Without waiving this objection, UCG would state that the maximum FERC rates are a market indicator. However, UCG admits that there is not currently an index such as NYMEX, INSIDE FERC or Natural Gas Intelligence which tracks the transportation costs of natural gas.

6. The PBR covers all the associated commodity costs for purchasing, delivering and storing of gas to the end consumer.

RESPONSE: Admitted.

7. In the Original Docket (Docket No. 97-0 1364), the TRA collapsed the original five incentive mechanisms of the PBR: (1) gas procurement, (2) seasonal pricing differential, (3)

storage gas commodity, (4) transportation capacity cost and (5) storage capacity cost into two mechanisms: (1) gas commodity mechanism and (2) capacity release sales mechanism.

RESPONSE: Admitted.

8. When the five incentive mechanisms were collapsed into two (2), UCG indicated that the formulas used for these calculations did not need to be changed.

RESPONSE: The Company cannot admit or deny this request as written, but would state that the testimony of UCG in Docket No. 97-01364 speaks for itself and that the final order on Phase II in Docket No. 97-01364 does not reflect such an indication from UCG.

9. The indices used to calculate transportation costs account for the effects of market-driven pipeline transportation rates.

RESPONSE: Denied. See response to Number 5.

10. The petition filed on March 31, 1997 by UCG for permission to use an experimental incentive plan does not mention discounted transportation contracts in either the gas commodity or the capacity release sale mechanisms.

RESPONSE: While it is true that the initial petition did not expressly mention "discounted transportation contracts," the inclusion of such savings was definitely within the scope, intent and spirit of the PBR which was ultimately approved.

11. The calculations used to determine the "avoided costs" were transportation rates negotiated in the contract subtracted from the minimum pipeline tariff rates approved by FERC.

RESPONSE: Denied. The negotiated rates are subtracted from the maximum FERC rates.

12. The current method used to calculate benefits for commodity savings is to average the three indices and then multiply it by UCG's total MCF gas purchases.

RESPONSE: Denied. UCG contends that the current method also includes transportation savings.

13. Under the PBR, when the commodity costs of gas falls within a deadband of 97.7% to 102% of the total benchmark amounts there is no incentive savings or costs.

RESPONSE: Based on UCG's understanding of what is included within the commodity costs of gas, this request is admitted.

14. A component of the gas procurement mechanism allows UCG to retain 50% of the savings on "gas purchases" that are made below 97.7% of the benchmark.

RESPONSE: Objection. The terms "gas procurement mechanism" are undefined. It is admitted that gas purchases are a component of the gas commodity mechanism and the lower band of the benchmark is 97.7%. UCG is permitted to retain 50% of the savings that are below the lower band of the benchmark.

15. The benchmark for UCG's PBR uses no other indices other than *Inside FERC Gas Market Report*, *Natural Gas Intelligence* and *NYMEX* indices.

RESPONSE: Admitted, however the maximum FERC rate is a market indicator for transportation costs.

16. During the 2000-2001 plan year, UCG had savings on gas purchases for two (2) months.

RESPONSE: As reflected in the annual report for the 2000-2001 plan year, UCG admits that without taking into account the commodity savings resulting from the NORA contract and discounted commodity transportation contracts it realized shared savings under the gas commodity mechanism in two (2) months.

17. UCG reported \$1,052,531 in savings from the negotiated transportation contracts and retained \$526,265.

RESPONSE: Admitted with respect to the 2000-2001 annual report.

18. Negotiated transportation contracts were not used by UCG to calculate savings in the accounting for any plan year prior to 2000-2001.

RESPONSE: Admitted.

19. UCG's method for calculation of interest was computed for the 2000-2001 plan year is not calculated the same as the previous plan year.

RESPONSE: Denied. See Company response to Audit Finding No. 1.

VERIFICATION

I, Patricia Childers, hereby depose and say, after having been first duly sworn, that I have read the foregoing Interrogatories, Requests for Admission and the answers and responses thereto are true according to the best of my knowledge, information, and belief.

Patricia Childers

Name: Patricia Childers

Title: Division VP - Rates & Reg. Affairs

STATE OF TENNESSEE)
COUNTY OF WILLIAMSON)

Personally appeared before me, Patricia Childers with whom I am personally acquainted, and who acknowledged that he has answered the foregoing Interrogatories and Requests for Admission and executed the foregoing instrument for the purposes therein contained.

Witness my hand, at office, on this 14th day of October, 2002.

Lois Carrier
Notary Public Lois Carrier

My Commission Expires: 7-26-03

Respectfully submitted,

BAKER, DONELSON, BEARMAN
& CALDWELL, P.C.

By: _____

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